

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Leonard Marchese Conf. No.: 1815
Serial No.: 09/613,980 Art Unit: 2151
Filed: July 11, 2000 Examiner: Khanh Dinh
For: ELECTRONIC SPACE AND METHOD FOR PROVIDING
RESOURCES TO FACILITATE IDEATION

Office Of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SECOND PETITION UNDER 37 CFR 1.181(a)(1)

Sir:

The Applicant in the above referenced matter hereby petitions the Commissioner under 37 CFR 1.181 (a)(1) to withdraw the "Notice of Non-Compliance with the Requirements of 37 CFR 41.37" mailed May 30, 2008 in the above referenced matter, enclosed as Exhibit A. Such a Notice is not subject to appeal to the Board of Patent Appeals and Interferences, and this petition is authorized pursuant to MPEP 1205.03.

Statement of Facts

The Final Rejection in this case issued on October 7, 2004, with a Notice of Appeal timely filed thereafter, followed by an Appeal Brief submitted on May 4, 2005.

On August 26, 2005, instead of an Examiners' Answer, the Examiner issued an Office Action, citing new grounds for rejection. On January 26, 2006, the applicant requested reinstatement of the appeal, and submitted a revised appeal brief addressing the new grounds for rejection.

Nearly two years later, on September 14, 2007, the Examiner issued a notice of non-compliance relative to the Summary of Claimed Subject Matter, (Exhibit B) to which the applicant filed a reply on September 28, 2007 (Exhibit C).

Then again, the Examiner issued yet another notice of Non-Compliance, on December 31, 2007, (Exhibit D) this time the stated reason being: "The explanation of the subject matter in independent claims (21, 26 and 32) should be defined in separate sections."

No such requirement is incorporated in the rules governing appeal briefs, and so the applicant filed a first Petition to withdraw the notice of Non-Compliance, on January 2, 2008. (Exhibit E) No decision on the Petition was delivered, and on March 6, 2008, the applicant submitted the revised portion of the Appeal Brief, to avoid incurring further extension fees as well as to avoid further delay (Exhibit F).

Incredibly, the Examiner has now issued yet another Notice of Non-Compliance, attached as Exhibit A, because the brief submitted on January 26, 2006 had a typographical error in a patent number, specifically "The brief provides an incorrect US patent number (Kirk, US pat. no 6,185,842). It should be corrected as Kirk (US pat. no. 6,175,842)".

There is nothing in the rules which requires such grammatical precision before the substance of an appeal can be heard. The Kirk patent is discussed in the office actions and responses, and is of record in the case. The error was irrelevant and could have been addressed in an Examiners' Answer. The Appeal Brief as submitted was in full compliance with the requirements of 37 CFR 41.37, and the Notice should be withdrawn.

Argument

The Applicant believes the Examiner has intentionally sought to derail the prosecution of this case. Citing a typographical error as a basis for considering the Appeal Brief Non-Compliant

is clearly improper. No rule of practice requires such precision. Such a minor error was never intended to be a reason for refusing to advance an appeal.

This typographical error has existed in the Appeal Brief since January 26, 2006. The examiner has been stalling over filing an Examiners' Answer to the Appeal Brief FOR OVER TWO YEARS. Rather than deal with the substance of the rejection, the Examiner has done everything possible to side track and delay the case.

The Examiner had two prior opportunities to point out this error, but did not do so. This type of piecemeal review calls into question the competence of the Examiner. At a minimum, this deliberate delay shows a clear bias against the applicant.

To issue another Notice of Non-Compliance, on yet another basis not supported by the rules, is a complete abuse of discretion by the examiner, particularly since this is the Third Notice, and none of the Notices cited substantive reasons for refusing to accept the appeal brief. Each Notice dealt with cosmetics, and this examiners' personal preferences. There is no support in the CFR nor in the MPEP for the examiners' actions.

Kirk is of record in the file and is discussed exhaustively in the Brief and Office Actions...to think that the appeal cannot be heard because of a typographical error is nonsense. A simple indication of the error in the Examiners Answer would have been sufficient to resolve this, but the examiner chose instead avoidance and delay.

The applicant believes the Examiner issued this Notice intentionally to "punish" the applicant for filing the first petition, this Notice sent in retaliation for the filing of the petition. The examiner believes he can continue to issue these notices with impunity, and that the applicant has no recourse.

Clearly, this Examiner believes he can win this appeal by frustrating to applicant to the

point that he will simply give up and walk away from this case and let it be abandoned.

This conduct is not acceptable for one charged with diligent prosecution of patent applications. Any examiner who proceeds with such a strategy is breaching their duty to the public, as well as inventors' who are entitled to a full and fair hearing on the patentability of their inventions.

37 CFR 41.37(c)(1)(v) does not provide authority for rejecting an Appeal Brief for the type of errors this Examiner perceives. There is no requirement that there be separate sections devoted to each independent claim, and no requirement to reject a Brief because of an obvious and harmless typographical error.

It certainly pushes form over substance to use minutia totally unrelated to the patentability of claims to delay and defer a full and fair hearing of an applicants' claims on appeal. This Examiner has deliberately used these notices not to address substance, but as a tool to subvert the applicants' right to contest the rejection of his claims before the Board of Appeals.

As with the prior petition, an examiner has no right to create new and individual requirements for how they would like to see an appeal brief prepared. An examiner cannot impose his own individual preferences on Appeal Brief preparation; that is not the rule, they must only assure compliance with the Rules of Procedure, and no more.

Because the Examiner improperly issued the present Notice of Non-Compliance for reasons beyond the scope of a proper review as to form, the applicant hereby petitions the commissioner to withdraw the Notice of Non-Compliance, and the applicant respectfully requests that the Petition be granted, and the Notice of Non Compliance mailed on May 30, 2008 be withdrawn.

Moreover, given this Examiners' apparent personal bias against the applicant, as well as

the deliberate delay caused by this Examiner, of well over two years since the Appeal was re-instated, the applicant requests this application to be transferred to another Examiner.

To the extent a fee is required for this Petition, the undersigned hereby authorizes the Commissioner to charge the petition fee to deposit account no. 04-0838.

Respectfully submitted,

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/WJS/

William J. Sapone
Registration No. 32,518
Attorney for Applicant(s)

EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,980	07/11/2000	Leonard E. Marchese	11590/9-1268	1815

7590 05/30/2008

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BRIDGEPORT,, CT 06605-1601

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 05/30/2008

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED

JUL 1 2008

COLEMAN SUDOL SAPONE, P.C.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/613,980

Applicant(s)

MARCHESE, LEONARD E.

Examiner

Khanh Dinh

Art Unit

2151

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 28 September 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

The brief provides an incorrect US patent number (Kirk, US pat. no. 6,185,842). It should be corrected as Kirk (US pat. no. 6,175, 842).

/Khanh Dinh/
Primary Examiner, Art Unit 2151

EXHIBIT B



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/613,980

07/11/2000

Leonard E. Marchese

11590/9-1268

1815

7590

09/14/2007

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 09/14/2007

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RECEIVED

SEP 17 2007

COLEMAN SUDOL SAPONE, P.C.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/613,980

Applicant(s)

MARCHESE, LEONARD E.

Examiner

Khanh Dinh

Art Unit

2151

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 26 January 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
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6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

Appellant has grouped all of independent claims together in the Appeal Brief. Appellant has to provide a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters.

Khanh Dinh

Khanh Dinh
Primary Examiner
Art Unit: 2151

EXHIBIT C

Docket No.: **11590/9-1268**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

Applicant:	Leonard E. Marchese	Conf. No. 1815
Serial No.:	09/613,980	Group Art Unit: 2151
Filed	: July 11, 2000	Examiner: Khanh Q Dinh
For	: ELECTRONIC SPACE AND METHOD FOR FACILITATING PROBLEM SOLVING	

Board of Patent Appeals and Interferences
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Sir:

In response to the Notice of Non-Compliant Appeal Brief mailed on September 14, 2007, the applicant encloses a replacement paper supplying the Summary of the Claimed Subject Matter. Per MPEP 1205.03(B), an entire new brief is not needed, there being no other stated objections in the notice of non-compliance.

The applicant hereby objects to the notice of non-compliance as being improper and untimely. While the refused brief was submitted on January 26, 2006, this was a reinstatement of the appeal, and there was no indication that the original appeal brief submitted on May 4, 2005, having a virtually identical Summary of the Claimed Invention, was non-compliant. Even without the prior review, it should not have taken nearly two years to look at the brief and decide that the brief was non-compliant.

The Summary provided was certainly adequate and should have been accepted, as it did describe the critical elements of the independent claims, with reference to the specification. Alternatively, from the delay alone, it should be considered that any objections as to form were waived.

This case has been before the Patent Office for over 7 years. It is over two years since the first brief was filed. It is requested that this application receive expedited consideration, and that further delays be avoided.

The required fee for filing the Appeal Brief was paid with submission of the first Appeal Brief on May 4, 2005. No fee is believed to be due at this time, however, should any fee be due, the Commissioner is authorized to charge any deficiency or credit any excess to Deposit Account No. 04-0838.

Dated: September 28, 2007

Respectfully submitted,

_____/WJS/_____
William J. Sapone
Registration No. 32,518
Attorney for Applicant(s)

Coleman Sudol Sapone P.C.
714 Colorado Avenue
Bridgeport CT 06605 (203) 366-3560

SUMMARY OF CLAIMED SUBJECT MATTER

The invention is directed to a system for organizing and assembling information and resources for interaction with at least one user for facilitating creative problem solving is shown in Fig. 1, the system (1) including a host/server (2) disposed on a network (p. 5, l. 15-16) (Claim 21, 32). Storage is provided to save the user configuration on the host/server, though storage on user devices is also contemplated.(p. 5, l. 21-p. 6, l. 3) (Claim 21)

A plurality of devices, such as the personal computer 3 or laptop computer 5 are connectable to the host/server. The host/server contains the software that acts as the means for generating a plurality of user configurable electronic spaces (4, 8, 6, 9 and 11) (P. 5, l. 15-p. 6, l.3; p20, l. 9-11).(Claim 21, 32) A user configured electronic space is configured by the user to look like a room (12) with furnishings and decorations (see Fig. 2) containing a plurality of images that also function as links to various resources and applications. (p. 7, l. 11-19).(Claims 21, 26 and 32)

Each user may access the electronic space by means of various electronic devices, such as the PC (3), laptop (5) or a mobile wireless device (7), and then may select specific icon images such as the phone (14) to activate one of a selection of communication links or engage the typewriter icon (15) to use a word processing application (p. 7, l. 13-17)(Claim 21, 26 and 32)

The electronic room space, best shown in applicant's Fig. 2, is not a conventional user interface. The room image is configured by the user to contain personalized iconic images representative of the tastes of the user, and which also act as interactive user configured links to selected resources. The links enable the user to interact with selected resources, to gather further resources and to interact with selected individuals, providing a unique workplace

conducive to problem solving.

Fig. 3 illustrates the multidimensional interaction available to a user of the applicant's invention. A user configured virtual room has selected "decorations" and "furnishings" that actually link to specific resources so the user can literally work within the "room" on problem solving. Each member of a group working on the same problem has their own room, so each can interact not only with their selected resources but also with each other in a common electronic space or "meeting room". Thus, the electronic space is a dynamic environment for the user, not merely a man-machine interface.

Each of independent claims 21, 26 and 32 also incorporate an intelligent agent application, and means to engage a dispatcher in locating resources and tools to assist the user. (p. 5, l. 3-7; p.10, l.15-18; p.14, l.20 - p.15, l.5; p. 17, l. 8-12). The user also has a system monitor to oversee and work in concert with the intelligent agent (p. 5, l. 3-7), and which may also function as a dispatcher for locating resources on request, providing tools for creating reports, graphics, letters, presentations, access to an AI based system for morphing solutions, etc. (p.14, l. 20 - p. 15, l.5). The dispatcher may also locate experts or relevant databases, or technical resources, to facilitate the problem solving process. (p.17, l. 8-12). Utilizing the intelligent agent and dispatcher, a user can increase the speed at which a solution is arrived at, and can develop solutions that would be difficult to arrive at in a standard office setting.

EXHIBIT D



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,980	07/11/2000	Leonard E. Marchese	11590/9-1268	1815

7590 12/31/2007

William J SaponE, (REG. NO. 32,518)
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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 12/31/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED
JAN 8 2 2008
COLEMAN SUDOL SAPONE, P.C.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/613,980	Applicant(s) MARCHESE, LEONARD E.	
	Examiner Khanh Dinh	Art Unit 2151	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 28 September 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
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8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

The explanation of the subject matter in independent claims (21, 26 and 32) should be defined in separate sections.

Khanh Dinh

Khanh Dinh
Primary Examiner
Art Unit: 2151

EXHIBIT E

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Leonard Marchese Conf. No.: 1815
Serial No.: 09/613,980 Art Unit: 2151
Filed: July 11, 2000 Examiner: Khanh Dinh
For: ELECTRONIC SPACE AND METHOD FOR PROVIDING
RESOURCES TO FACILITATE IDEATION

Office Of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 CFR 1.181(a)(1)

Sir:

The Applicant in the above referenced matter hereby petitions the Commissioner under 37 CFR 1.181 (a)(1) to withdraw the "Notice of Non-Compliance with the Requirements of 37 CFR 41.37" mailed December 31, 2007 in the above referenced matter, enclosed as Exhibit A. Such a Notice is not subject to appeal to the Board of Patent Appeals and Interferences, and this petition is authorized pursuant to MPEP 1205.03.

Statement of Facts

The Final Rejection in this case issued on October 7, 2004, with a Notice of Appeal timely filed thereafter, followed by an Appeal Brief submitted on May 4, 2005. On August 26, 2005, instead of an Examiners' Answer, the Examiner issued an Office Action, citing new grounds for rejection. On January 26, 2006, the applicant requested reinstatement of the appeal, and submitted a revised appeal brief addressing the new grounds for rejection. Nearly two years later, on September 14, 2007, the Examiner issued a notice of non-compliance relative to the

Summary of Claimed Subject Matter, to which the applicant filed a reply on September 28, 2007. A copy is enclosed as Exhibit B hereto.

Now, yet again, the Examiner has issued yet another notice of Non-Compliance, this time the stated reason is "The explanation of the subject matter in independent claims (21, 26 and 32) should be defined in separate sections."

No such requirement is incorporated in the rules governing appeal briefs.

The Appeal Brief as presently submitted is in full compliance with the requirements of 37 CFR 41.37.

Argument

The Applicant believes the Examiner has improperly deemed the Appeal Brief to be in non-compliance with 37 CFR 41.37(c)(1)(v). The Brief does contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, with reference to the specification by page and line number and to the drawings. There is no requirement that there be separate sections devoted to each independent claim, and as no such requirement exists, that cannot be a basis for rejecting the appeal brief. It certainly pushes form over substance to use minutia totally unrelated to the patentability of claims to delay and defer a full and fair hearing of an applicants' claims on appeal. Too often, these notices issue not as to any real substance but as a tool to subvert the applicants' right to contest the rejection of his claims before the Board of Appeals.

The Appeal Brief as originally filed on May 4, 2005 was not deemed non-compliant, and contained a nearly identical "Summary of the Claimed Subject Matter", and then it took nearly two years to issue the first Notice of Non-Compliance. Now, a second Notice issues directed to the style, not the substance of the Brief.

The subject section is called a "Summary" for a reason; it need only be a brief, and concise explanation, because the application and drawing are of record in the Appeal. What was submitted met the requirements for a proper appeal brief and the examiner has no right to create new and individual requirement for how they would like to see an appeal brief prepared. An examiner cannot impose his own individual preferences on Appeal Brief preparation; that is not the rule, they must only assure compliance with the Rules of Procedure, and no more.

Because the Examiner improperly issued the Notice of Non-Compliance for reasons beyond the scope of a proper review as to form, the applicant hereby petitions the commissioner to withdraw the Notice of Non-Compliance, and the applicant respectfully requests that the Petition be granted, and the Notice of Non Compliance mailed on December 31, 2007 be withdrawn.

To the extent a fee is required for this Petition, the undersigned hereby authorizes the Commissioner to charge the petition fee to deposit account no. 04-0838.

Respectfully submitted,

Coleman Sudol Sapone P.C.
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Telephone No. (203) 366-3560
Facsimile No. (203) 335-6779

_____/WJS/_____
William J. Sapone
Registration No. 32,518
Attorney for Applicant(s)

EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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7590 12/31/2007

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 12/31/2007

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JAN 8 2 2008
COLEMAN SUDOL SAPONE, P.C.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/613,980	Applicant(s) MARCHESE, LEONARD E.	
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EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

The explanation of the subject matter in independent claims (21, 26 and 32) should be defined in separate sections.

Khanh Dinh

Khanh Dinh
Primary Examiner
Art Unit: 2151

EXHIBIT B

Docket No.: **11590/9-1268**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

Applicant:	Leonard E. Marchese	Conf. No. 1815
Serial No.:	09/613,980	Group Art Unit: 2151
Filed	: July 11, 2000	Examiner: Khanh Q Dinh
For	: ELECTRONIC SPACE AND METHOD FOR FACILITATING PROBLEM SOLVING	

Board of Patent Appeals and Interferences
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Sir:

In response to the Notice of Non-Compliant Appeal Brief mailed on September 14, 2007, the applicant encloses a replacement paper supplying the Summary of the Claimed Subject Matter. Per MPEP 1205.03(B), an entire new brief is not needed, there being no other stated objections in the notice of non-compliance.

The applicant hereby objects to the notice of non-compliance as being improper and untimely. While the refused brief was submitted on January 26, 2006, this was a reinstatement of the appeal, and there was no indication that the original appeal brief submitted on May 4, 2005, having a virtually identical Summary of the Claimed Invention, was non-compliant. Even without the prior review, it should not have taken nearly two years to look at the brief and decide that the brief was non-compliant.

The Summary provided was certainly adequate and should have been accepted, as it did describe the critical elements of the independent claims, with reference to the specification. Alternatively, from the delay alone, it should be considered that any objections as to form were waived.

This case has been before the Patent Office for over 7 years. It is over two years since the first brief was filed. It is requested that this application receive expedited consideration, and that further delays be avoided.

The required fee for filing the Appeal Brief was paid with submission of the first Appeal Brief on May 4, 2005. No fee is believed to be due at this time, however, should any fee be due, the Commissioner is authorized to charge any deficiency or credit any excess to Deposit Account No. 04-0838.

Dated: September 28, 2007

Respectfully submitted,

_____/WJS/_____
William J. Sapone
Registration No. 32,518
Attorney for Applicant(s)

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SUMMARY OF CLAIMED SUBJECT MATTER

The invention is directed to a system for organizing and assembling information and resources for interaction with at least one user for facilitating creative problem solving is shown in Fig. 1, the system (1) including a host/server (2) disposed on a network (p. 5, l. 15-16) (Claim 21, 32). Storage is provided to save the user configuration on the host/server, though storage on user devices is also contemplated.(p. 5, l. 21-p. 6, l. 3) (Claim 21)

A plurality of devices, such as the personal computer 3 or laptop computer 5 are connectable to the host/server. The host/server contains the software that acts as the means for generating a plurality of user configurable electronic spaces (4, 8, 6, 9 and 11) (P. 5, l. 15-p. 6, l.3; p20, l. 9-11).(Claim 21, 32) A user configured electronic space is configured by the user to look like a room (12) with furnishings and decorations (see Fig. 2) containing a plurality of images that also function as links to various resources and applications. (p. 7, l. 11-19).(Claims 21, 26 and 32)

Each user may access the electronic space by means of various electronic devices, such as the PC (3), laptop (5) or a mobile wireless device (7), and then may select specific icon images such as the phone (14) to activate one of a selection of communication links or engage the typewriter icon (15) to use a word processing application (p. 7, l. 13-17)(Claim 21, 26 and 32)

The electronic room space, best shown in applicant's Fig. 2, is not a conventional user interface. The room image is configured by the user to contain personalized iconic images representative of the tastes of the user, and which also act as interactive user configured links to selected resources. The links enable the user to interact with selected resources, to gather further resources and to interact with selected individuals, providing a unique workplace

conducive to problem solving.

Fig. 3 illustrates the multidimensional interaction available to a user of the applicant's invention. A user configured virtual room has selected "decorations" and "furnishings" that actually link to specific resources so the user can literally work within the "room" on problem solving. Each member of a group working on the same problem has their own room, so each can interact not only with their selected resources but also with each other in a common electronic space or "meeting room". Thus, the electronic space is a dynamic environment for the user, not merely a man-machine interface.

Each of independent claims 21, 26 and 32 also incorporate an intelligent agent application, and means to engage a dispatcher in locating resources and tools to assist the user. (p. 5, l. 3-7; p.10, l.15-18; p.14, l.20 - p.15, l.5; p. 17, l. 8-12). The user also has a system monitor to oversee and work in concert with the intelligent agent (p. 5, l. 3-7), and which may also function as a dispatcher for locating resources on request, providing tools for creating reports, graphics, letters, presentations, access to an AI based system for morphing solutions, etc. (p.14, l. 20 - p. 15, l.5). The dispatcher may also locate experts or relevant databases, or technical resources, to facilitate the problem solving process. (p.17, l. 8-12). Utilizing the intelligent agent and dispatcher, a user can increase the speed at which a solution is arrived at, and can develop solutions that would be difficult to arrive at in a standard office setting.

EXHIBIT F

Docket No.: **11590/9-1268**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

Applicant:	Leonard E. Marchese	Conf. No. 1815
Serial No.:	09/613,980	Group Art Unit: 2151
Filed	: July 11, 2000	Examiner: Khanh Q Dinh
For	: ELECTRONIC SPACE AND METHOD FOR FACILITATING PROBLEM SOLVING	

Board of Patent Appeals and Interferences
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Sir:

In response to the Notice of Non-Compliant Appeal Brief mailed on December 31, 2007, the applicant encloses a replacement paper supplying the Summary of the Claimed Subject Matter. Per MPEP 1205.03(B), an entire new brief is not needed, there being no other stated objections in the notice of non-compliance.

The applicant hereby objects to the notice of non-compliance as being improper and beyond the scope of the rules.

The Final Rejection in this case issued on October 7, 2004, with a Notice of Appeal timely filed thereafter, followed by an Appeal Brief submitted on May 4, 2005. On August 26, 2005, instead of an Examiners' Answer, the Examiner issued an Office Action, citing new grounds for rejection. On January 26, 2006, the applicant requested reinstatement of the appeal, and submitted a revised appeal brief addressing the new grounds for rejection. Nearly two years later, on September 14, 2007, the Examiner issued a notice of non-compliance relative to the Summary of Claimed Subject Matter, to which the applicant filed a reply on September 28, 2007.

Now, yet again, the Examiner has issued another notice of Non-Compliance, this time the stated reason is "The explanation of the subject matter in independent claims (21, 26 and 32) should be defined in separate sections."

No such requirement is incorporated in the rules governing appeal briefs. While the applicant believes the Appeal Brief as presently submitted is in full compliance with the requirements of 37 CFR 41.37, the applicant is submitting yet another amended "Summary of the Claimed Subject Matter", so as to expedite prosecution of the appeal. However, the applicant has also submitted a petition, as the examiner has overstepped his authority in crafting requirements that extend beyond the rules of practice. Specifically, 37 CFR 41.37(c)(1)(v) contains no requirement to discuss each independent claim in a separate section.

As stated in the last submission, it is believed that the Summary provided was adequate and should have been accepted. Given the long delay, it should be considered that any objection as to form was waived. This case has been before the Patent Office for over 7 years, and it has been well over two years since the first brief was filed. It is requested that the case now receive expedited consideration, and that further delays be avoided.

The required fee for filing the Appeal Brief was paid with submission of the first Appeal Brief on May 4, 2005. No fee is believed to be due at this time, however, should any fee be due, the Commissioner is authorized to charge any deficiency or credit any excess to Deposit Account No. 04-0838.

Dated: March 7, 2008

Respectfully submitted,

_____/WJS/_____
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Attorney for Applicant(s)

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Bridgeport CT 06605 (203) 366-3560

SUMMARY OF CLAIMED SUBJECT MATTER

The invention is directed to a system for organizing and assembling information and resources for interaction with at least one user for facilitating creative problem solving. The claimed subject matter subject to this appeal is contained in the three independent claims as follows:

21. A system for organizing and assembling information and resources for interaction with at least one user for facilitating creative problem solving, the system comprising:

- a host/server disposed on a network;

- a plurality of devices connectable to the host/server via the network;

- means for generating a plurality of user configurable electronic spaces, each electronic space configured for computer based display as a virtual room on display devices of each of the plurality of users, the electronic room spaces supported on the network;

- means for each user to configure an individualized room by selecting graphic, textual and application information and resources for display in the individualized room, each configured and displayed as selectable iconic images located in the individualized room;

- means for each user to access a respective individualized electronic room and means for actuating the selected iconic images for accessing the graphic, textual and application information and resources within the individualized electronic room space;

- an intelligent agent application supported on the host/server for interacting with each user accessing an individualized electronic room;

- means for monitoring the intelligent agent and means for engaging a dispatcher for locating resources and tools for the user responsive to the intelligent agent; and

- means for storing and displaying the plurality of individualized electronic spaces.

26. An electronic space supported on a network and being accessible by a user, the electronic space comprising:

- a computer generated image of a room viewable on a computer display device, the room image containing selected graphical and textual information visually displayed as decorative images or furnishing images within the room image, one or more images being settable as one or more iconic images activatable to access at least one selected resource or software application, each actively accessible selected resource or software application being usable within the room image, wherein a user creates an interactive and individualized computer generated room image furnished with selected decorative images and selected furnishing images, an electronic intelligent agent application integrated with the electronic space and programmed for interaction with at least one user within the individualized electronic room space, and

at least one iconic image representing means for engaging a dispatcher for locating resources and tools for the user.

32. A method for use of a computer based data processing system to enhance creating thinking comprising:

- providing a computer based data processing system;

- using the computer based data processing system to generate an electronic space represented as a computer generated image of a room viewed on a computer display device;

- configuring the electronic space to contain activatable links represented as icons within the room, the icons linked to a plurality of data resources, human resources and software applications;

- selecting at least one activatable icon and linking to the resource selected by the user; and using the resource within the electronic room space;

- providing an intelligent agent application programmed for interaction with the user within the electronic room space;

- using the intelligent agent to view and select the activatable links for incorporation in the electronic room space, and

- providing access to a dispatcher for locating resources and tools for the user.

SUMMARY FOR CLAIM 21

As to Claim 21, the invention is illustrated in Fig. 1, the system (1) including a host/server (2) disposed on a network (p. 5, l. 15-16) (Claim 21). Storage is provided to save the user configuration on the host/server, though storage on user devices is also contemplated.(p. 5, l. 21-p. 6, l. 3) (Claim 21)

A plurality of devices, such as the personal computer 3 or laptop computer 5 are connectable to the host/server.(Claim 21) The host/server contains the software that acts as the means for generating a plurality of user configurable electronic spaces (4, 8, 6, 9 and 11) (p. 5, l. 15-p. 6, l.3; p.20, l. 9-11).(Claim 21) A user configured electronic space is configured by the user to look like a room (12) with furnishings and decorations (see Fig. 2) containing a plurality of images that also function as links to various resources and applications. (p. 7, l. 11-19).(Claim 21)

Each user may access the electronic space by means of various electronic devices, such as the PC (3), laptop (5) or a mobile wireless device (7), and then may select specific icon

images such as the phone (14) to activate one of a selection of communication links or engage the typewriter icon (15) to use a word processing application (p. 7, l. 13-17)(Claim 21)

The electronic room space, best shown in applicant's Fig. 2, is not a conventional user interface. The room image is configured by the user to contain personalized iconic images representative of the tastes of the user, and which also act as interactive user configured links to selected resources. The links enable the user to interact with selected resources, to gather further resources and to interact with selected individuals, providing a unique workplace conducive to problem solving.

Fig. 3 illustrates the multidimensional interaction available to a user of the applicant's invention. A user configured virtual room has selected "decorations" and "furnishings" that actually link to specific resources so the user can literally work within the "room" on problem solving. Each member of a group working on the same problem has their own room, so each can interact not only with their selected resources but also with each other in a common electronic space or "meeting room". Thus, the electronic space is a dynamic environment for the user, not merely a man-machine interface.

Independent claim 21 also incorporates an intelligent agent application, and means to engage a dispatcher in locating resources and tools to assist the user. (p. 5, l. 3-7; p.10, l.15-18; p.14, l.20 - p.15, l.5; p. 17, l. 8-12). The user also has a system monitor to oversee and work in concert with the intelligent agent (p. 5, l. 3-7), and which may also function as a dispatcher for locating resources on request, providing tools for creating reports, graphics, letters, presentations, access to an AI based system for morphing solutions, etc. (p.14, l. 20 - p. 15, l.5). The dispatcher may also locate experts or relevant databases, or technical resources, to facilitate the problem solving process. (p.17, l. 8-12). Utilizing the electronic space, including the intelligent agent and dispatcher, a user can increase the speed at which a solution

is arrived at, and can develop solutions that would be difficult to arrive at in a standard office setting. (p. 19, l. 20-p. 20, l. 8)

SUMMARY FOR CLAIM 26

As to Claim 26, the invention is illustrated in Figs. 1 and 2, the system (1) including a computer generated image of a room viewable on a computer display device, the room image containing selected graphical and textual information visually displayed as decorative images or furnishing images within the room image, one or more images being settable as one or more iconic images activatable to access at least one selected resource or software application. (p. 7, l. 7-p. 9, l. 21)

The user configured electronic space is configured by the user to look like a room (12) with furnishings and decorations (see Fig. 2) containing a plurality of images that also function as links to various resources and applications. (p. 7, l. 11-19).(Claim 26)

The electronic room space, best shown in applicant's Fig. 2, is not a conventional user interface. The room image is configured by the user to contain personalized iconic images representative of the tastes of the user, and which also act as interactive user configured links to selected resources. The links enable the user to interact with selected resources, to gather further resources and to interact with selected individuals, providing a unique workplace conducive to problem solving.

Fig. 3 illustrates the multidimensional interaction available to a user of the applicant's invention. A user configured virtual room has selected "decorations" and "furnishings" that actually link to specific resources so the user can literally work within the "room" on problem solving. Each member of a group working on the same problem has their own room, so each can interact not only with their selected resources but also with each other in a common

electronic space or “meeting room”. Thus, the electronic space is a dynamic environment for the user, not merely a man-machine interface.

Independent claim 26 also incorporates an intelligent agent application, and means to engage a dispatcher in locating resources and tools to assist the user. (p. 5, l. 3-7; p.10, l.15-18; p.14, l.20 - p.15, l.5; p. 17, l. 8-12). The user also has a system monitor to oversee and work in concert with the intelligent agent (p. 5, l. 3-7), and which may also function as a dispatcher for locating resources on request, providing tools for creating reports, graphics, letters, presentations, access to an AI based system for morphing solutions, etc. (p.14, l. 20 - p. 15, l.5). The dispatcher may also locate experts or relevant databases, or technical resources, to facilitate the problem solving process. (p.17, l. 8-12). Utilizing the electronic space, including the intelligent agent and dispatcher, a user can increase the speed at which a solution is arrived at, and can develop solutions that would be difficult to arrive at in a standard office setting. (p. 19, l. 20-p. 20, l. 8)

SUMMARY FOR CLAIM 32

As to Claim 32, the invention is illustrated in Fig. 1, the system (1) including a host/server (2) disposed on a network (p. 5, l. 15-16) (Claim 32) The host/server contains the software that acts as the means for generating a plurality of user configurable electronic spaces (4, 8, 6, 9 and 11) (p. 5, l. 15-p. 6, l.3; p. 20, l. 9-11).(Claim 32) A user configured electronic space is configured by the user to look like a room (12) with furnishings and decorations (see Fig. 2) containing a plurality of images that also function as links to various resources and applications. (p. 7, l. 11-19).(Claim 32) The user thus has the capability to follow the steps of configuring the electronic space to contain activatable links represented as icons within the room, the icons linked to a plurality of data resources, human resources and software

applications. The user also being able to select at least one activatable icon and linking to the resource selected by the user; and then to use the resource within the electronic room space.(p. 6, l.19-p. 76; p. 8, l-8; p. 9, l. 3-21).

Each user may access the electronic space by means of various electronic devices, such as the PC (3), laptop (5) or a mobile wireless device (7), and then may select specific icon images such as the phone (14) to activate one of a selection of communication links or engage the typewriter icon (15) to use a word processing application (p. 7, l. 13-17)(Claim 32)

The electronic room space, best shown in applicant's Fig. 2, is not a conventional user interface. The room image is configured by the user to contain personalized iconic images representative of the tastes of the user, and which also act as interactive user configured links to selected resources. The links enable the user to interact with selected resources, to gather further resources and to interact with selected individuals, providing a unique workplace conducive to problem solving.

Fig. 3 illustrates the multidimensional interaction available to a user of the applicant's invention. A user configured virtual room has selected "decorations" and "furnishings" that actually link to specific resources so the user can literally work within the "room" on problem solving. Each member of a group working on the same problem has their own room, so each can interact not only with their selected resources but also with each other in a common electronic space or "meeting room". Thus, the electronic space is a dynamic environment for the user, not merely a man-machine interface.

Independent claim 32 also incorporates an intelligent agent application, and means to engage a dispatcher in locating resources and tools to assist the user. (p. 5, l. 3-7; p.10, l.15-18; p.14, l.20 - p.15, l.5; p. 17, l. 8-12). The user also has a system monitor to oversee and work in concert with the intelligent agent (p. 5, l. 3-7), and which may also function as a

dispatcher for locating resources on request, providing tools for creating reports, graphics, letters, presentations, access to an AI based system for morphing solutions, etc. (p.14, l. 20 - p. 15, l.5). The dispatcher may also locate experts or relevant databases, or technical resources, to facilitate the problem solving process. (p.17, l. 8-12). Utilizing the electronic space, including the intelligent agent and dispatcher, a user can increase the speed at which a solution is arrived at, and can develop solutions that would be difficult to arrive at in a standard office setting. (p. 19, l. 20-p. 20, l. 8)